



2005 ASSEMBLY BILL 357

April 22, 2005 - Introduced by Representatives SHERMAN, MUSSER, MOLEPSKE, AINSWORTH, FREESE, LEHMAN, SCHNEIDER, ZEPNICK, BLACK, CULLEN, BENEDICT, POCAN, VRUWINK, PARISI, SEIDEL, TURNER, POPE-ROBERTS and SINICKI, cosponsored by Senators CARPENTER, JAUCH and HANSEN. Referred to Committee on Health.

1 **AN ACT to create** 100.32 of the statutes; **relating to:** advertising for prescription
2 drugs.

Analysis by the Legislative Reference Bureau

This bill prohibits advertising for prescription drugs. This prohibition does not apply to an advertisement that is broadcast from or is mailed or shipped to the ultimate recipient of the advertisement from outside this state or to advertising sent directly to pharmacists or to practitioners who are authorized to prescribe prescription drugs.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 100.32 of the statutes is created to read:
4 **100.32 Prescription drug advertising.** (1) Except as provided in sub. (2),
5 no person may advertise a prescription drug. In this subsection, "prescription drug"
6 means a drug, drug product, or drug-containing preparation that is subject to 21
7 USC 353 (b) or 21 CFR 201.105.
8 (2) Subsection (1) does not apply to any of the following:

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1 (a) An advertisement that is broadcast from or is mailed or shipped to the
2 ultimate recipient of the advertisement from outside this state.

3 (b) An advertisement that is sent directly to a practitioner, as defined in s.
4 450.01 (17), or to a pharmacist licensed under s. 450.03.

SECTION 2. Nonstatutory provisions.

5 (1) The legislature finds that prescription drug advertising that is directed to
6 consumers undermines the efforts of this state to protect the health and welfare of
7 the citizens of this state from drugs that are sufficiently dangerous to require a
8 prescription from a licensed practitioner.
9

10 (2) The legislature finds that prescription drug advertising that is directed to
11 consumers undermines the efforts of this state to ensure that practitioners who are
12 licensed to prescribe and administer prescription drugs do so on the basis of their
13 independent professional judgment.

14 (3) The legislature finds that the health and welfare of the citizens of this state
15 has been threatened by prescription drugs that have been heavily advertised in the
16 popular media and that have subsequently been determined to pose substantial risk
17 to human health.

18 (4) The legislature finds that prescription drug advertising that is directed to
19 consumers is inherently misleading, in that it promotes the sale of products so
20 dangerous that state law does not permit consumers to independently purchase.

21 (5) The legislature finds that the increasing cost of prescription drugs poses a
22 serious threat to the health of the citizens of this state, and that prescription drug
23 advertising directed to consumers aggravates this threat by adding considerable cost
24 to such drugs without concomitant benefit to the health of the citizens of this state.

